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Conference of the Parties to the United Nations Convention against Transnational Organized Crime

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Working Group on the Smuggling of Migrants
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Draft Report

Addendum

II. Recommendations (*continued*)

A. Recommendations on criminal justice responses, including international cooperation, in investigations and prosecutions of perpetrators of migrants smuggling operations

1. The Working Group recommended that the Conference of the Parties consider the following recommendations for adoption. States Parties should:

(a) Promote effective international cooperation, including mutual legal assistance, and exchange of information, between countries of origin, transit and destination on smuggling of migrants cases, including through UNTOC;

(b) Respond to the transnational criminal networks involved in migrant smuggling cases through cooperation and information-sharing between law enforcement authorities in source, transit, and destination countries, and provide training to enable these types of transnational investigations, consistent with the goals of UNTOC and the Smuggling of Migrants Protocol;

(c) Encourage regional legal cooperation between judicial authorities, including through existing networks;

(d) Consider deploying prosecutors between countries along the same migration route, with the aim of facilitating contact and sharing information on criminal networks involved in the smuggling of migrants, and following up on requests for mutual legal assistance;

(e) Establish cooperation with consular representatives, as appropriate, to facilitate assistance to smuggled migrants;

(f) Provide the Conference of Parties with information related to international cooperation in migrant smuggling cases, including related use of the Smuggling of Migrants Protocol;

(g) Strengthen capacity-building efforts, including of immigration and border management officials, in countries along migration routes as a key component of any effective strategy to tackle the crime of smuggling of migrants;

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(h) Provide bilateral, regional and multilateral training opportunities to enhance national capacities to counter migrant smuggling, including through use of mock investigations and trials;

(i) Review domestic procedures and practices related to international cooperation to enhance cross-border assistance in investigations, prosecutions, and judicial proceedings related to migrant smuggling, and facilitate consultation in the context of extradition requests.

B. General recommendations

2. The Working Group recommended that the Conference of the Parties consider the following recommendations for adoption. States Parties should:

(a) Enhance comprehensive and sustainable responses to the smuggling of migrants through international cooperation targeted at addressing the root socioeconomic causes of this crime, such as poverty and underdevelopment;

(b) Protect and ensure the rights and dignity of migrants while fighting smuggling of migrants and trafficking in persons, with particular attention to the rights of vulnerable groups, including women and children;

(c) Support safe, orderly and regular migration as a means of preventing smuggling of migrants;

(d) Note the relevance of the Working Group on Smuggling of Migrants and UNODC to the implementation of the forthcoming Global Compact on Safe, Orderly and Regular Migration;

(e) Implement human rights-based approaches that provide for the non-criminalization of irregular migration, including smuggled migrants;

(f) Provide greater support to enable UNODC to increase its counter-smuggling efforts, in particular technical assistance to build related capacities and knowledge;

(g) Encourage all States to submit cases to the UNODC Case Law Database on Smuggling of Migrants.

III. Summary of deliberations (*continued*)

3. During the question and answer session that followed the panellists' presentations, several States parties highlighted the considerable overlaps between smuggling of migrants and trafficking in persons on the ground, and the need for prosecutors to have sufficient knowledge and expertise to respond accordingly.

4. Several States parties emphasized the importance of addressing root causes contributing to smuggling of migrants and taking preventative measures, including awareness-raising activities, while also enhancing legal migration channels.

5. States parties exchanged views on approaches taken to mutual legal assistance and extradition requests relating to smuggling of migrants. Several noted a good level of coordination with other countries, including through informal communication prior to formal submission of requests, as well as prior to final decisions thereon. The need to be able to readily identify authorities responsible for sharing such information was highlighted.

6. A number of States parties took the opportunity to deliver national statements. In doing so, many States parties stressed the importance of the Global Compact on Safe, Orderly and Regular Migration, which they hoped will provide practical tools to protect smuggled migrants' rights, regardless of their migratory status.

7. Many speakers, while recognizing the sovereign right of States parties to implement policies governing migration, stressed the importance of non-criminalization of smuggled migrants, and the need for broad human rights protection. Several States parties expressed serious concerns regarding restrictive border policies and detention of children, in particular when separated from their families. Several also noted that implementing security measures without addressing the socioeconomic causes of migration yields limited success.

8. Many States parties stressed that international cooperation is the best means of tackling smuggling of migrants in a comprehensive and integrated manner. Strengthening regional approaches was identified as a key aspect of such cooperation.

9. A number of States parties noted the importance of UNODC's role in facilitating technical assistance in promoting ratification and implementation of the Smuggling of Migrants Protocol, with one speaker urging other States parties to increase support provided to UNODC's counter-smuggling efforts. The value of UNODC tools, including the Smuggling of Migrants Knowledge Portal, was also highlighted.

IV. Organization of the meeting

B. Statements (*continued*)

10. Under agenda items 2 and 3, statements were made by representatives of the following parties to the Smuggling of Migrants Protocol: Algeria, Brazil, Cuba, Dominican Republic, Egypt, Italy, Fiji, Mexico, Morocco, Nigeria, Sudan, Turkey, United States of America, Venezuela (Bolivarian Republic of).